## IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

JOSHUA BUTLER,	)
Plaintiff,	)
	) CIVIL ACTION
<b>v.</b>	) FILE NO. 1:12-cv-03918-CAP
	)
GREYSTAR MANAGEMENT	)
SERVICES, L.P. and RREEF	)
AMERICA REIT III CORP. LL,	)
	)
Defendants.	)

# <u>DEFENDANTS' NOTIFICATION OF</u> INTENT TO SEEK APPORTIONMENT AGAINST NON-PARTIES

COME NOW Defendants and, pursuant to O.C.G.A. § 51-12-33, herewith notify the Court and Plaintiff that they intend to assert that the following non-parties were at fault for the injuries and damages that form the basis for this litigation and that fault should therefore be apportioned to them:

- (1) DeCorrey Lamarr Avery 36 Howell Street Apt #1 Atlanta, Georgia 30308
- (2) John Doe #1 (Co-Perpetrator)
  Whereabouts Unknown
- (3) John Doe #2 (Co-Perpertrator)
  Whereabouts Unknown

Plaintiff and his counsel have the information from the police investigators concerning the investigation, to the extent it has been released, and therefore have access to the same information concerning the identity of the assailants and the involvement of the assailants in the matter in issue. However, on Sunday, November 27, 2011, at approximately 1:00 a.m., Plaintiff

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and a group of friends were on the patio of Defendant's resident, Jace Agolli (Apartment #1115)

when they were approached by three unknown individuals who robbed them at gun point. The

Plaintiff was shot in the abdomen by one of the robbers.

DeCorrey Avery was identified by the police as one of three perpetrators involved in this

criminal incident. He was subsequently arrested and charged with multiple criminal acts

(including armed robbery, aggravated assault with intent to rob and possession of a firearm

during the commission of a felony) in connection with this incident.

John Doe #1 and John Doe #2 are co-perpetrators in this criminal incident. Avery along

with the two co-perpetrators robbed and shot Plaintiff. As such, Defendants contend that if the

criminal perpetrators are not determined to be entirely at fault, then, at a minimum, fault should

be apportioned to Avery and the other two John Doe perpetrators as provided by Georgia law.

Defendants will seek such non-party apportionment at the trial of the case.

Submitted this 9<sup>th</sup> day of January, 2014.

HAWKINS PARNELL THACKSTON & YOUNG, LLP

/s/ Michael J. Goldman

Michael J. Goldman

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Attorney For Defendants Greystar Management Services, L.P. and RReef

America Reit III Corp. LL

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#### **CERTIFICATE OF SERVICE**

I hereby certify that, on the date set forth below, I filed the foregoing **DEFENDANTS**'

### NOTIFICATION OF INTENT TO SEEK APPORTIONMENT AGAINST NON-

**PARTIES** with the Clerk of Court using the CM/ECF system that automatically sent email notification of such filing to the attorneys of record as follows:

James A. Rice, Jr., Esq. JAMES A. RICE, JR., P.C. 563 Spring Street, NW. Atlanta, Georgia 30308

This 9<sup>th</sup> day of January, 2014.

s/ Michael J. Goldman
Michael J. Goldman
Georgia Bar No. 300100